

IC 7.1-3-21

Chapter 21. Restrictions on Issuance of Permits

IC 7.1-3-21-1

Premises outside corporate limits

Sec. 1. Premises Outside Corporate Limits. The commission shall not issue a permit in respect to premises situated outside the corporate limits of an incorporated city or town except as otherwise specifically provided in this article.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-21-2

Repealed

(Repealed by P.L.100-1983, SEC.8.)

IC 7.1-3-21-3

Residency requirements

Sec. 3. Residency Requirements. The commission shall not issue an alcoholic beverage wholesaler's, retailer's, or dealer's permit of any type to a person who has not been a continuous and bona fide resident of this state for five (5) years immediately preceding the date of the application for a permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1982, P.L.69, SEC.8.

IC 7.1-3-21-4

Partnerships

Sec. 4. The commission shall not issue an alcoholic beverage wholesaler's, retailer's, or dealer's permit of any type to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.51-1994, SEC.10; P.L.105-1995, SEC.5.

IC 7.1-3-21-5

Corporations

Sec. 5. (a) Corporations. The commission shall not issue an alcoholic beverage wholesaler's, retailer's, or dealer's permit of any type to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of this state for five (5) years.

(b) The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

(c) Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.72-1996, SEC.12.

IC 7.1-3-21-5.2

Issuance of permits to limited partnerships; qualifications

Sec. 5.2. (a) The commission shall not issue an alcoholic beverage wholesalers, retailers, or dealers permit of any type to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

As added by P.L.51-1994, SEC.11. Amended by P.L.72-1996, SEC.13.

IC 7.1-3-21-5.4

Issuance of permits to limited liability companies; qualifications

Sec. 5.4. (a) The commission shall not issue an alcoholic beverage wholesalers, retailers, or dealers permit of any type to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

(c) Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

As added by P.L.51-1994, SEC.12. Amended by P.L.72-1996, SEC.14.

IC 7.1-3-21-6

Exceptions for retail and dealer partnerships, corporations, limited partnerships, and limited liability companies

Sec. 6. (a) The provisions of sections 4, 5, 5.2, and 5.4 of this chapter concerning retail and dealer partnerships, corporations, limited partnerships, and limited liability companies shall not apply to the issuance of:

- (1) a dining car permit;
- (2) boat permit;
- (3) drug store permit;
- (4) grocery store permit;
- (5) hotel permit;

- (6) airplane permit;
 - (7) an excursion and adjacent landsite permit;
 - (8) a horse track permit;
 - (9) a satellite facility permit; or
 - (10) a retail permit to an establishment:
 - (A) that is sufficiently served by adequate law enforcement at its permit location; and
 - (B) whose annual gross food sales at the permit location:
 - (i) exceed one hundred thousand dollars (\$100,000); or
 - (ii) in the case of a new application and as proved by the applicant to the local board and the commission, will exceed two hundred thousand dollars (\$200,000) by the end of the two (2) year period from the date of the issuance of the permit.
- (b) The commission shall not issue a permit listed in subsection (a) to a foreign:
- (1) corporation;
 - (2) limited partnership; or
 - (3) limited liability company;
- that is not duly qualified to do business in Indiana.
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by Acts 1979, P.L.83, SEC.6; P.L.15-1994, SEC.9; P.L.2-1995, SEC.39; P.L.71-1996, SEC.4.

IC 7.1-3-21-7

Restaurant corporations; exception

Sec. 7. Restaurant Corporations: Exception. The provisions of IC 1971, 7.1-3-21-5, shall not apply to the common stock ownership of a corporation holding a restaurant permit and having less than sixty per cent (60%) resident ownership prior to March 14, 1963.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-21-8

Disclosure of interested parties

Sec. 8. The commission shall not issue an alcoholic beverage permit of any type to a person unless that person has on file with the commission a verified list containing the name and address of each person who is, or will be, financially or beneficially interested in the permit and the business conducted, or to be conducted, under it. At all times, a change in the list shall be filed by the applicant or permittee with the commission within ten (10) days of the date when the change became effective. The lists, together with any changes, shall be kept on file in the office of the commission and they shall be open to public inspection.
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.38.

IC 7.1-3-21-9

Public officers

Sec. 9. The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a person who holds an elective or

appointive public office which has the responsibility of enforcing the state laws regulating the sale of alcoholic beverage. The commission may issue an alcoholic beverage wholesaler's permit of any type to a person who holds any other appointive or elective public office.
(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.104-1989, SEC.1.

IC 7.1-3-21-10

Location of premises; disclosure

Sec. 10. (a) An application for a permit for premises situated within a distance of two hundred (200) feet from an elementary or secondary school or church must disclose this fact.

(b) The local board shall state, if required by the commission, in the questionnaire its opinion as to the propriety of granting the particular application.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.52-1994, SEC.6.

IC 7.1-3-21-11

Premises near wall of school or church

Sec. 11. (a) As used in this section, "wall" means a wall of a building. The term does not include a boundary wall.

(b) Except as provided in subsection (c), the commission shall not issue a permit for a premises if a wall of the premises is situated within two hundred (200) feet from a wall of a school or church, if no permit has been issued for the premises under the provisions of Acts 1933, Chapter 80.

(c) This section does not apply to premises if:

(1) the premises of a grocery store or drug store if:

(A) a wall of the premises is situated within two hundred (200) feet from a wall of a church or school;

(B) the commission receives the written statement of the authorized representative of the church or school stating expressly that the church or school does not object to the issuance of the permit for the premises; and

(C) the commission determines that the church or school does not object to the issuance of the permit for the premises; or

(2) a church or school that applies for a temporary beer or wine permit.

(d) The commission shall base its determination under subsection (c)(1)(C) solely on the written statement of the authorized representative of the church or school.

(e) If the commission does not receive the written statement of the authorized representative of the church or school, the premises of the grocery store or drug store may not obtain the waiver allowed under this subsection.

(f) If the commission determines that the church or school does not object, this section and IC 7.1-3-21-10 do not apply to the permit premises of the grocery store or drug store on a subsequent renewal or transfer of ownership.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.77-1997,

SEC.1; P.L.204-2001, SEC.39.

IC 7.1-3-21-12

Wagering occupational tax stamp

Sec. 12. Wagering Occupational Tax Stamp. The commission shall not issue a permit to sell alcoholic beverages at retail to a person who holds, owns, or possesses a wagering occupational tax stamp issued by the United States internal revenue authorities.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-21-13

4-H club exhibits

Sec. 13. 4-H Club Exhibits. The commission shall not issue a temporary beer permit to a person for the express purpose of selling beer at a place where an organized 4-H club association has an exhibit.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-21-14

Indiana state fair

Sec. 14. Indiana State Fair. The commission shall not issue a permit for the sale of alcoholic beverages on the Indiana State Fair Grounds during the period of the Indiana State Fair.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-21-15

Delinquency in payment of taxes

Sec. 15. (a) The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

- (1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 that are due currently;
- (2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 for the assessment periods during which the transferor held the permit; or
- (3) is on the most recent tax warrant list supplied to the commission by the department of state revenue.

(b) The commission shall issue, renew, or transfer a permit that the commission denied under subsection (a) when the appropriate one (1) of the following occurs:

- (1) The person, if seeking a renewal, provides to the commission a statement from the county treasurer of the county in which the property of the applicant was assessed indicating that all the property taxes under IC 6-1.1 that were delinquent have been paid.
- (2) The person, if seeking a transfer of ownership, provides to the commission a statement from the county treasurer of the county in which the property of the transferor was assessed indicating that all the property taxes under IC 6-1.1 have been paid for the assessment periods during which the transferor held the permit.
- (3) The person provides to the commission a statement from the commissioner of the department of state revenue indicating that the person's delinquent tax liability has been satisfied.

(4) The commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) An applicant may not be considered delinquent in the payment of listed taxes if the applicant has filed a proper protest under IC 6-8.1-5-1 contesting the remittance of those taxes. The applicant shall be considered delinquent in the payment of those taxes if the applicant does not remit the taxes owed to the state department of revenue after a final determination on the protest is made by the department of state revenue.

(d) The commission may require that an applicant for the issuance, renewal, or transfer of a wholesaler's, retailer's, or dealer's, or other permit of any type furnish proof of the payment of a listed tax (as defined by IC 6-8.1-1-1) or taxes imposed by IC 6-1.1. The commission shall allow the applicant to certify, under the penalties for perjury, that the applicant is not delinquent in filing returns or remitting taxes.

As added by P.L.57-1984, SEC.11. Amended by P.L.23-1986, SEC.15; P.L.6-1987, SEC.15; P.L.332-1989(ss), SEC.40; P.L.64-1990, SEC.5; P.L.106-1995, SEC.15.